REMARKS/ARGUMENTS

Prior to this Amendment, claims 1-8, 10-14, 16-20, and 22-25 were pending in the application. Claim 1 is amended to clarify the order of steps in the method to clarify that the installation tool is loaded on the host only after an installation request is received and after computing environment information is received. Further, a software payload is transmitted after the installation tool is loaded and then, the installation tool uses the computing environment information to configure the installed software including modifying the software payload based on determined thresholds. Independent claim 18 is amended to include the limitation of dependent claim 19 (which is canceled). Hence, both amended claims 1 and 18 call for modifying software post installation. As such, the cited art showing pre-configuration of software clearly does not teach the claimed method and system.

No new matter is added by this Amendment. Claims 1-8, 10-14, 16-18, 20, and 22-25 remain for consideration by the Examiner.

Rejections Under 35 U.S.C. § 103

In the Office Action, claims 1-22 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,752,042 ("Cole") in view of U.S. Patent No. 6,434,532 ("Goldband"). The rejection is respectfully traversed based on the amendments to the claims and the following remarks.

As noted in the last response, embodiments of the invention are directed to methods and systems for remote installation of software management platforms that address the problems discussed in the Background of Applicant's specification. More particularly, as described in the paragraph beginning on line 29 of page 2, existing techniques are typically based on manual collection of information on the networked system, and then "the software is installed and initially configured manually by a team of onsite IT personnel." Then, the "software is executed and further configured as a part of an iterative process attempting to remove bugs and glitches and to force the installed software to better suit the unique environment of the customer."

Cole is similar in that the user is forced to initiate an update (see, col. 3, line 14), checking for updates and/or proper software is performed remotely, and then installation is performed at the client. Such installation is manual and as noted in Applicant's Background, often requires significant IT personnel time and effort. In contrast, the features of

embodiments of Applicant's invention that allow the invention to improve the installation and configuration (and, in some cases, post configuration) procedures for software management platform or software payloads are included in the pending independent claims as discussed below.

The Office Action in the Response to Arguments indicates that of course the software that is downloaded to the host or client in Cole is "configured" because all software has to be configured to run properly. Applicant's agree that all software is "configured" in some sense but would point out that most often software is pre-configured or initialized for running on most systems or even on a particular system, such as at the software developer's site or elsewhere prior to distribution. But, then, when installed, the computer system (rather than the software) is typically modified or changed to be able to run the software. Alternatively, as discussed in Applicant's Background, a significant effort is made to configure the software manually by onsite personnel. In contrast, embodiments of the invention call for just-in-time collection of computing environment information, downloading an installation tool, installing the software, and then using the tool to configure the installed software based on the environment information. Neither Cole nor Goldband teach configuration post installation based on collected environment information.

Claim 1 is directed to a method for installing systems management software on a host device. The method calls for "loading an installation tool configured to automatically install the systems management software on the host device" "after the receiving of the computing environment information." Then, after the loading, the method includes "transmitting a software payload" and "first operating the installation tool to automatically install the software payload on the host device." Then, after the first operating, "second operating the installation tool to automatically configure the installed software payload based on the computing environment information." As can be seen, claim 1 specifies that the software is not "pre-configured" as asserted in the Response to Arguments but instead, is configured post installation, which is not shown by Cole or Goldband.

Applicant believes the language of claim 1 now makes it clear that the installation tool is able to analyze the current state of a host device and configure installed software based on that analysis to enhance software operation. If the Examiner believes further claim amendments would more clearly distinguish claim 1 from Cole and Goldband, Applicant would appreciate any language suggestions the Examiner may be willing to provide to further

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prosecution of this case.

Further, claim 1 calls for the computing environment information to include thresholds based on the configuration of the host device and the "automated configuring comprises modifying the installed software payload based on the thresholds." The Office Action refers briefly to version information, but Applicant asserts that version information does not teach the "thresholds" of claim 1. Because each of these features is not shown in the combined teaching of Cole and Goldband, the obviousness rejection based on these references should be withdrawn.

In addition to the reasons provided above for allowing claim 1, the following remarks provided in the last response are still applicable and are presented for completeness and clarity:

"Turning to Cole, the service application is described in col. 6, lines 46-55 as being responsible for installing "the code updates" in the client 14. The service application "replaces the stale file with the updated file" and then, the "client is request to re-boot, and the operating system installs the listed code updates during the re-boot." There is no teaching that the service application second operates to configure the installed code updates. Cole further fails to teach that such configuring of the installed software payload is "based on the computing environment information" previously collected. It should be noted that Cole is directed toward identifying updated versions of already running software or updated or new versions of portions of software packages and not a new package of software (see claim 23 where this "new" feature is specifically claimed), and it is likely that the replacement versions are written to run properly in most systems in which the prior version ran (or manual configuration steps are typically provided or additional code provided).

Further, claim 1 calls for installation to be performed "automatically" by operation of the installation tool. In contrast, Cole teaches at least at col. 6, line 23, that the a list of potential code updates are presented to the user of the client 14, 15, 16 and then the client must make a selection. Hence, the skill of the operator comes into play in the effectiveness of the updating procedure as they client needs to select or approve proper code for installation. For at least these two reasons, claim 1 is allowable over Cole."

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In the second point of the Response to Arguments, the Office Action stated that Applicant argued that Goldband does not teach "automatically". However, in the prior response, it was argued that Goldband fails to overcome the deficiencies of Cole, and claim 1 is believed allowable over the combination of Cole and Goldband. Specifically, Goldband was noted as only being cited for the concept of loading an installation agent or module onto a client from a remote location. Such installation by the agent may be "automated" but this does not teach Applicant's claimed invention. Goldband does not teach operating such an installation agent **to configure** the software after installation based on the previously collected computing environment information for the client or host. Clearly, Goldband does not teach that configuration includes modifying software after installation based upon thresholds noted in the configuration of a host device. The combination of Cole and Goldband fail to teach or suggest each feature of claim 1.

As noted in the last response, claims 2-6 depend from claim 1 and are believed allowable at least for the reasons for allowing claim 1. Additionally, claim 2 calls for the computing environment to include "identification of modules for monitoring the host device." Cole and Goldband are not directed toward installing monitoring software and hence, fail to provide any teaching toward gathering such information about a host device (e.g., Cole simply states that it collects "basic system information using scout APIs" that comprises "system model, pre-load software level, BIOS level, and information that is not likely to change often such as type of operating system"). Claim 6 calls for the installation station to perform "selecting the software payload from the differing ones based on the received computing environment information." Cole teaches that a list of potential code updates is created based on the operation of recognizer programs 42 (see col. 5 13-41 with reference to Figure 4), and then, the client must select the "payload" from this list and "In response, the server 12 sends to the client 14 the FTP addressing information for the selected code updates" (see, col. 6, lines 23-30). The client performs the selecting of the payload from a narrowed list provided the selection server 12 but the selection server does not create and deliver the payload without operator intervention. For these additional reasons, claims 2 and 6 are allowable over Cole and Goldband.

As noted in the last response, independent claim 7 is directed to a method with some limitations similar to claim 1, and the reasons for allowing claim 1 apply to claim 7. Additionally, claim 7 includes limitations that make it clear the method is directed toward

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remotely managing the installation of the software payload from an installation station. Cole, in contrast, teaches that installation is performed solely by the download routine and service application in the client 14 (see Figure 1 and corresponding text), and this deficiency is not overcome by the teaching of Goldband. Hence, in "contrast to prior art installation methods, the method is not host-based" (see, Applicant's specification at lines 19-20 of page 5). Specifically, claim 7 calls for "in response to receiving the installation requests, establishing with the installation station a first active installation session and a second active installation session" and then "the transferring and installing of the payloads is remotely managed with the first and second active installation sessions at the installation station." Cole teaches that the client must send a selection to a server, the server provides addresses for the selected code updates, and then the download routine on the client acts to download the code updates from the content server, and this different then providing control by a single remote installation station over transmitting and installing. Hence, claim 7 is allowable over Cole and Goldband.

Claims 8 and 10-13 depend from claim 7 and are believed allowable as depending from an allowable base claim. Further, claim 12 calls for "allocating network addresses to network devices associated with the first and second ones." The Office Action takes Official Notice for this feature but Applicant objects as Applicant does not believe the feature claimed in claims 12 and more specifically in claim 13 is taught by "a user's IP address is assigned every time a user connects" based on SLIP protocol. Instead, Applicant explains from line 14, page 20 to line 2, page 22 that it was not common knowledge at the time the application was filed for those in the related arts to allocate network addresses to network devices at the time of installation of system monitoring software and certainly not to forecast the number of needed addresses as called for in claim 13. Therefore, Applicant requests that the Examiner provide a specific reference teaching the limitations of claims 12 and 13. For these additional reasons, claims 12 and 13 are allowable over Cole and Goldband in view of the objected to Official Notice.

Independent claim 14 is directed to a method with limitations similar to claim 1 but further calls for "performing modifications of the installed agent software based on the output file <u>to enhance operation</u> of the installed agent software." The Response to Arguments indicates that Goldband teaches installing a patch or update that enhance system operation. See, Goldband at col. 2, line 15-17. However, installing upgrades or patches is not the same as performing modifications of installed software "based on the output file" with an

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installation Daemon. The installed software of claim 14 may include or be a patch or update, but claim 14 requires more in that the method must include modifying the installed software with the installation Daemon – not with more installations of software – based on the output file. For these additional reasons, claim 14 is not made obvious by the teaching of Cole in view of Goldband. Claims 16-17 depend from claim 14 and are believed allowable as depending from an allowable base claim. Additionally, see the reasons for allowing claim 2.

Independent claim 18 is directed to a network system adapted for monitoring an operating computer system. Claim 18 is amended to clarify that the installation tool is further configured <u>to modify the</u> **installed** systems management software based on collected environment information. Hence, as with claim 1, the software may be "pre-configured" but it is also modified after installation, which is not shown by Cole or Goldband. Monitoring is achieved with "a remote service" that operates to monitor operations of the computer system "via execution of the installed systems management software on the managed host."

Further, Cole and Goldband fail to teach transmitting a payload including systems management software to a host and then using such software to monitor the device with a remote service. Cole provides a method for installing code updates, and Goldband teaches using an installed agent to determine when updates and the like are required in a client device. Neither discusses a remote service monitoring the client device via an installed management software package. Hence, claim 18 is not taught or even suggested by the combination of Cole and Goldband. Claims 19, 20, and 22 depend from claim 18 and are believed allowable as depending from an allowable base claim.

The remarks provided with reference to claim 1 are believed equally applicable to claims 23 and 25. Further, claims 23 calls for the environment information to include "thresholds" and the configuring to be performed based on such thresholds. Cole and Goldband do not teach gathering threshold information or using it to configure already installed software. Claim 25 calls for a survey tool to determine commands to run during installation of the software payload, which is clearly beyond the "basic" information collected in Cole. These commands are then run during installation by the installation tool. For these additional reasons, claims 23 and 25 are believed allowable over the combination of Cole and Goldband.

Conclusions

The additional references cited in the Office Action but not relied upon have been reviewed but are believed no more relevant than Cole or Goldband. The pending claims are believed allowable in light of these additional references.

No fee is believed due with this Amendment. However, any fee deficiency associated with this submittal may be charged to Deposit Account No. 50-1123.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

Date 6/07/04

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